

**REMARKS**

Claims 1-7, 10, 12, 14-23, 38 and 40-62 are all the claims pending in the application. Claims 52-58 and 62 are amended herein for editorial purposes. No new matter is presented.

Entry of the amendment after final rejection is proper since the amendments are merely editorial.

Claims 7, 9, 38, 40, 41, 51 and 59 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Xue *et al.*

The Examiner states the claims are product-by-process claims. The Examiner asserts that the “fil2 phenotype” is a yeast strain that has a deleted GPR1 gene (paragraph 298 of the published application, Pub. No. 2004/0175831A1). The Examiner further asserts that Xue *et al.* teaches a *S. cerevisiae* strain with a deletion in the GPR1 gene.

Applicants traverse the rejection.

Xue *et al.* describes that GPR1 encodes a Gprotein-coupled receptor, which associates with the Gpa2p G alpha subunit and functions in a Ras-independent pathway. Xue *et al.* further describes technical methods carried out in order to delete a gene in strains.

The present invention is different from Xue *et al.* because in the present invention the modifications are mutations of genes and not deletions.

Paragraph 298 of the published application, Pub. No. 2004/0175831A1, explains that the deletion is used to verify that the phenotype of thermoresistance is actually associated with a mutation of the gene *GPR1*. Specifically, the specification states that the *GPR1* gene has been deleted in the W303-1A strain, which is used for comparison to verify that the phenotype of thermoresistance was actually associated with a mutation on the gene *GPR1*. Paragraph 298 of the published application provides:

In order to verify that the phenotype of thermoresistance was actually associated with a mutation on the gene *GPR1*, the level of thermoresistance of the strain KL1 has been compared with that of the strain W303-1A in which the gene *GPR1* has been deleted (non-lethal deletion), as well as with that of the thermosensitive control W303-1A.

Further, as explained in paragraph 288, the mutated strain *fil2* of the invention is a mutation and not a deletion.

Consequently the present invention is not anticipated by Xue *et al.*

Accordingly, Applicants respectfully request withdrawal of the rejection.

Claims 10, 12, 14, 52-59 and 62 are objected to as being dependent upon a rejected base claim, but are indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 10, 12, 14, 52-59 and 62 depend directly, or indirectly, from claim 7 and are patentable for at least the same reasons.

Accordingly, Applicants respectfully request withdrawal of the objection to the claims.

Claims 1-6, 42-50 and 61 are allowed.

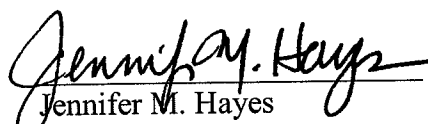
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116  
Application No.: 10/796,166

Attorney Docket No.: Q80427

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
Jennifer M. Hayes  
Registration No. 40,641

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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